

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE: EVELYN K HARRIS,)	CHAPTER 13
)	
Debtor,)	CASE NO. 21-00825-hb

EVELYN K. HARRIS,)	
)	
Plaintiff,)	CONTESTED MATTER
)	
vs.)	
)	
TITLEMAX OF SOUTH CAROLINA,)	AP CASE NO. 21-80036-hb
INC.,)	
)	
Defendant.)	

ANSWER

COMES NOW TITLEMAX OF SOUTH CAROLINA, INC. (“Movant”), and hereby files its Answer to Plaintiff’s Complaint, showing the Court as follows showing the Court as follows:

FIRST DEFENSE

Plaintiff’s Complaint fails to state a claim, in whole or in part, upon which relief can be granted.

SECOND DEFENSE

Plaintiff’s Complaint is barred by the doctrine of unclean hands.

THIRD DEFENSE

Plaintiff’s Complaint is barred by the doctrines of estoppel and waiver.

FOURTH DEFENSE

Plaintiff’s Complaint is barred because Plaintiff’s alleged damages, if any exist, were not directly or proximately caused by any act or omission on the part of Defendant.

FIFTH DEFENSE

Plaintiff's Complaint is barred because Defendant has at all times acted in good faith and did not directly or indirectly induce any act or acts constituting a violation or cause of action arising under federal or state law.

SIXTH DEFENSE

Plaintiff's Complaint is barred under the doctrine of frustration.

SEVENTH DEFENSE

Plaintiff's Complaint is barred under the doctrine of impossibility.

EIGHTH DEFENSE

Plaintiff's Complaint is barred, to the extent applicable, by the statute of frauds.

NINTH DEFENSE

Plaintiff's Complaint is barred due to Plaintiff's failure to comply with conditions precedent.

TENTH DEFENSE

Plaintiff's Complaint is barred because of Plaintiff's default and failure to perform.

ELEVENTH DEFENSE

Plaintiff's Complaint is barred from recovery of any and all damages that are purely speculative in nature.

TWELFTH DEFENSE

As all actions of Defendant including repossession occurred prior to the filing of Plaintiff's petition in her bankruptcy case, there has been no stay violation. *See* 11 U.S.C. 362(a); *Chicago v. Fulton*, 592 U. S. ____ (2021).

THIRTEENTH DEFENSE

Defendant reserves the right to assert additional defenses as the proof may warrant.

FOURTEENTH DEFENSE

Defendant denies all allegations and requests for relief not specifically admitted below.

FIFTEENTH DEFENSE

Having set forth the foregoing defenses, Defendant now responds to each of the enumerated paragraphs of the Plaintiff's Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted that this is an action for turnover, otherwise denied.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted that Defendant attempted to cramdown Defendant's claim. Defendant denies all other allegations.
11. Admitted that Defendant received notice at some point. Defendant denies all other allegations.
12. Admitted that Defendant has received notice. Defendant denies all other allegations.
13. Defendant admits that it has notice of the Plaintiff's claims. Defendant denies all other allegations.
15. Admitted that Defendant remains in possession of vehicle. Defendant denies all other allegations.

16. Admitted.
17. Defendant does not have sufficient information to admit or deny the allegations contained in this paragraph therefore denies the same.
18. Defendant admits that it has not yet filed its motion for relief but will file a motion to relief following this filing of this answer.
19. Defendant incorporates its foregoing answers as if fully set forth herein.
20. Denied. The vehicle was in possession of Defendant at the time of filing of the bankruptcy petition after being lawfully repossessed.
21. Denied.
22. Admitted that Trustee has not any taken action against Defendant for the vehicle to date, otherwise denied.
23. The legal conclusions in this paragraph do not need to be admitted or denied but Defendant denies that the vehicle is property of Plaintiff's estate beyond Plaintiff's right to redeem the vehicle.
24. Denied.
25. Defendant incorporates its foregoing answers as if fully set forth herein.
26. Denied. *See Chicago v. Fulton*, 592 U. S. ____ (2021) (The mere retention of estate property after the filing of a bankruptcy petition does not violate 11 U.S.C. § 362(a)(3), which operates as a "stay" of "any act" to "exercise control" over the property of the estate.).
27. Denied.
- 27(a). Denied.
- 27(b). Denied.
- 27(c). Denied.
- 27(d). Denied.

27(e). Denied.

27(a).[sic] Denied.

WHEREFORE, Defendant respectfully requests the Court dismiss this action against Defendant with all costs cast upon Plaintiff and for such further relief as the Court may deem just and proper.

Respectfully submitted this 28th day of July, 2021.

Cleary, West & Huff, LLP
1223 George C Wilson Dr
Augusta, GA 30909
(706) 860-9995
nhuff@cwhllp.com

/s/ Nathan E. Huff
NATHAN E. HUFF
SC District ID No. 12311
Attorney for Defendant

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE: EVELYN K HARRIS,)	CHAPTER 13
)	
Debtor,)	CASE NO. 21-00825-hb

EVELYN K. HARRIS,)	
)	
Plaintiff,)	CONTESTED MATTER
)	

vs.

TITLEMAX OF SOUTH CAROLINA,)	AP CASE NO. 21-80036-hb
INC.,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

This is to certify that I have this day served the following parties in this matter with a copy of the within and foregoing **ANSWER** by depositing a true and correct copy in the U.S. Mail with sufficient postage affixed thereto and properly addressed or served electronically via the Court's CM/ECF system to the parties listed below:

Evenlyn K Harris
488 Carolyn Drive
Spartanburg, SC 29306

Gretchen D. Holland
Ch. 13 Trustee Office
20 Roper Corners Circle, Suite C
Greeville, SC 29615

Dana Elizabeth Wilkinson
Wilkinson Law Firm
365-C East Blackstock Road
Spartanburg, SC 29301

Respectfully submitted this 28th day of July, 2021.

1223 George C Wilson Dr
Augusta, GA 30909
(706) 860-9995
nhuff@nehlaw.com

/s/ Nathan E. Huff

NATHAN E. HUFF
SC District ID No. 12311
Attorney for Movant